

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**MUSCATINE COUNTY SOLID
WASTE MANAGEMENT
AGENCY;
Permit No. 70-SDP-2-75P**

**ADMINISTRATIVE CONSENT
ORDER**

NO. 2008-SW-01

**TO: Laura Liegols
Solid Waste Manager
Muscatine Co. SWMA
1000 Houser St.
Muscatine IA 52761-6146**

I. SUMMARY

This administrative consent order (Order) is entered into between the Iowa Department of Natural Resources (Department) and Muscatine County Solid Waste Management Agency (Muscatine Co. SWMA) to correct operational violations. Pursuant to this Order, Muscatine Co. SWMA shall make necessary improvements and shall pay an initial administrative penalty of \$4,000.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Brent Earley
Field Office #6
Iowa Department of Natural Resources
1023 West Madison
Washington, Iowa 52353
Ph: 319-653-2135

Relating to this Order to:

Jon C. Tack, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

1. The Muscatine County Sanitary Landfill (the landfill) is owned by the City of Muscatine. Sanitary Disposal Project permit No. 70-SDP-2-75P is held by the Muscatine Co. SWMA and authorizes the operation of the landfill. The landfill has been operated since July 1, 2007 by Dick Doyle Excavation pursuant to a contract with Muscatine Co. SWMA.

2. On May 30, 1997, Administrative Order No. 1997-SW-08 was issued to Muscatine County Sanitary Landfill due to operational violations related to daily cover and litter control at the landfill. This order assessed a penalty of \$2,000. A timely appeal was filed by the City of Muscatine.

3. On July 7, 1999, Administrative Order No. 1999-SW-09 was issued to Muscatine County Sanitary Landfill due to operational violations related to daily cover, litter control, leachate control, and storm water control and maintenance at the landfill. This order assessed a penalty of \$10,000. A timely appeal was filed by the City of Muscatine.

4. In November of 1999, the Department and the City of Muscatine reached a settlement of the two pending orders. Pursuant to the terms of the settlement, the City of Muscatine paid \$5,000 to resolve the outstanding contested cases.

5. Since the resolution of the prior administrative orders, there have been recurrent violations. In 2007, the Department documented violations at the landfill, including violations related to appropriate cover, erosion control, litter control, and waste placement.

6. The landfill changed contract operators in July of 2007 and has made operational changes with an intent to address the prior violations and prevent future violations. Current landfill management staff is working with the Department to address all areas of concern. The management staff and the Department are working to establish certain goals and time frames in which issues such as erosion control and alternative cover (listed for purposes of example only, not as an exhaustive list) can be achieved, recognizing that some issues are weather and resource dependent, and cannot be achieved immediately.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-121.

2. Pursuant to 567 IAC 113.26(2)"a", solid waste shall be unloaded at the operating area only when an operator is on duty at that area. Muscatine Co. SWMA has violated this rule requirement on one or more occasions.

3. Pursuant to 567 IAC 113.27(2), litter shall be confined to the property on which the sanitary disposal project is located. At the conclusion of each day of operation, any litter strewn beyond the confines of the operating area shall be collected and stored in covered leakproof containers or properly disposed of. Muscatine Co. SWMA has violated this rule requirement on one or more occasions.

4. Pursuant to 567 IAC 113.28(2)"a", immediately after solid waste is deposited, it shall be uniformly spread and compacted as densely as practicable in layers not exceeding 2 feet in depth and at an operating face slope which will permit thorough compaction into cells. Muscatine Co. SWMA has violated this rule requirement on one or more occasions.

5. Pursuant to 567 IAC 113.28(2)"b", solid waste at the site shall be covered after each day of operation with a compacted layer of at least 6 inches of earth. Muscatine Co. SWMA has violated this rule requirement on one or more occasions.

V. ORDER

The Muscatine County SWMA consents to the issuance of this Administrative Consent Order and agrees to be bound by the terms of this Section V, but does not admit the allegations of fact and conclusions of law stated elsewhere in the Administrative Consent Order.

The Department and Muscatine Co. SWMA agree and Muscatine Co. SWMA is hereby ordered to comply with the following requirements:

1. Muscatine Co. SWMA shall pay a penalty in the amount of \$4,000 at the time of execution of this Order.

2. By March 1, 2008, Muscatine Co. SWMA shall submit an Operational Plan describing Best Management Practices to be employed at the landfill to address concerns related to erosion control, litter control, and the placement of waste including the steepness of the working area.

3. By June 1, 2008, Muscatine Co. SWMA shall submit a long term Plan of Action addressing the ten-year operating time frames of the facility, including the anticipated dates of construction and operation within each disposal area to be utilized within this 10-year period. The long term Plan of Action shall address such issues as the sequencing of cell use, final fill contours, and construction sequencing and schedules.

4. A failure to timely submit the plans required by paragraphs 2 or 3, above, shall result in the immediate imposition of a penalty in the amount of \$500 for each violation and said penalty is hereby assessed by this Order without the need for further action by the Department. The stipulated penalty described herein is a single penalty per violation, not a daily penalty. The payment of this stipulated penalty shall not relieve Muscatine Co. SWMA from the duty to submit the required Plan(s).

VI. PENALTY

1. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000 per day for solid waste violations.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10.

a. Economic Benefit. The operational and planning deficiencies which have caused or contributed to the violations documented at this site are likely to have resulted in both economic benefits and economic costs related to planning and operational deficiencies. In order to resolve this matter consensually, the Department has declined to determine the amount, if any, by which the economic benefits exceeded the costs realized by the Muscatine Co. SWMA. Therefore, no penalty is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. The regulations violated by Muscatine Co. SWMA are designed to protect the groundwater and surface water of the state. The failure to comply with the regulations referenced herein create an increased risk of contamination of the waters of the state. In order to resolve this matter consensually, the Department has agreed to the assessment of \$1,000 for this factor plus any stipulated penalties which shall become due in the event of noncompliance with the deadlines contained herein.

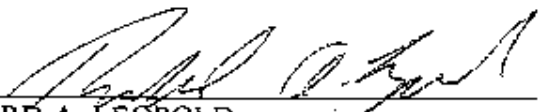
c. Culpability. A review of the Department records indicates a pattern of violations at the Muscatine Sanitary Landfill. Muscatine Co. SWMA has taken corrective action to address violations but those violations have reoccurred. An aggravating factor is the two prior administrative orders in 1997 and 1999. A mitigating factor is the operational and organizational changes that have been implemented in 2007. There are multiple dates of violation. In order to resolve this matter consensually, only \$3,000 is assessed for this factor plus any stipulated penalties which shall become due in the event of noncompliance with the deadlines contained herein.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.308 and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Muscatine Co. SWMA. By signature to this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code section 455B.307. Compliance with provisions 1 through 3 of part "V. Order" of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order. The Department reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



RICHARD A. LEOPOLD
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 3 day of
Jan, 2008



MUSCATINE CO. SWMA

Dated this 6th day of
December, 2007